

CS for EHB 2147

THE STATE SENATE  
Monday, April 10, 2006

Committee Substitute for  
ENGROSSED  
House Bill No. 2147

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2147 - By: PIATT  
of the House and GUMM of the Senate.

[ banks and banking - creating Task Force - prohibiting acts  
- effective date -  
emergency ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1418 of Title 6, unless there is  
created a duplication in numbering, reads as follows:

A. As used in this section, "lender" means a bank, savings and  
loan association, savings bank, credit union, finance company,  
mortgage bank, mortgage broker and any affiliate.

B. No person shall include the name, trade name or trademark of  
a lender or a name, trade name or trademark similar to that of a  
lender in a solicitation for products or services without the  
consent of the lender unless the solicitation clearly and  
conspicuously states in bold-faced type on the front page of the  
correspondence that the person is not sponsored by or affiliated  
with a lender and that the solicitation is not authorized by the  
lender, which shall be identified by name. The statement shall

1 include the name, address and telephone number of the person making  
2 the solicitation and that any loan information referenced was  
3 provided by the lender.

4 C. No person may include a loan number, loan amount or other  
5 specific loan information that is not publicly available in a  
6 solicitation for the purchase of products and services.

7 D. No person may include a loan number, loan amount or other  
8 specific loan information that is publicly available in a  
9 solicitation for the purchase of products and services if use of  
10 such information is prohibited by this title.

11 E. No person may include a loan number, loan amount or other  
12 specific loan information that is publicly available in a  
13 solicitation for the purchase of products and services and allowed  
14 by this title, unless the solicitation clearly and conspicuously  
15 states in bold-faced type on the front page of the correspondence  
16 that the person is not sponsored by or affiliated with the lender  
17 and that the solicitation is not authorized by the lender, which  
18 shall be identified by name. The statement shall include the name,  
19 address and telephone number of the person making the solicitation  
20 and that any loan information referenced was not provided by the  
21 lender.

22 F. No person shall make reference to an existing lender without  
23 the written consent of the lender or make reference to a loan

1 number, loan amount or other specific loan information on the  
2 outside of an envelope, visible through the envelope window, or on a  
3 postcard in connection with any written communication that includes  
4 or contains a solicitation for products or services offered by the  
5 other lender.

6 G. A lender or owner of a name, trade name or trademark may  
7 seek an injunction against a person who violates this section to  
8 stop the unlawful use of the name, trade name, trademark or loan  
9 information. The person seeking the injunction shall not have to  
10 prove actual damages as a result of the violation. Irreparable harm  
11 and interim harm to the lender or owner shall be presumed. The  
12 lender or owner seeking the injunction may seek to recover actual  
13 damages and any profits the defendant has accrued as a result of the  
14 violation. The prevailing party in any action brought pursuant to  
15 this section is entitled to recover costs associated with the action  
16 and reasonable attorney fees from the other party.

17 H. The following are exempt from the provisions of this  
18 section:

19 1. Any communications by a lender or its affiliates with a  
20 current customer of the lender or with a person who was a customer  
21 of the lender during the immediately preceding eighteen (18) months;  
22 and

1        2. Any advertisement or solicitation by a lender for products  
2 or services that compares the products or services offered by  
3 another lender provided that the person making the comparison  
4 clearly and conspicuously identifies itself in the advertisement or  
5 solicitation.

6        SECTION 2.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1621 of Title 6, unless there is  
8 created a duplication in numbering, reads as follows:

9        A. There is hereby created the Task Force for the Study of  
10 State Banking Services.

11        B. The Task Force shall consist of thirteen (13) members as  
12 follows:

13        1. One member to be appointed by the Governor from a statewide  
14 membership organization representing realtors;

15        2. One member to be appointed by the Speaker of the Oklahoma  
16 House of Representatives from a statewide organization representing  
17 the insurance industry;

18        3. One member to be appointed by the President Pro Tempore of  
19 the Oklahoma State Senate from a statewide membership organization  
20 representing the banking industry;

21        4. Five members to be appointed by the Speaker of the Oklahoma  
22 House of Representatives who shall be legislators serving on the  
23 Banking and Finance Committee of the House of Representatives

1 including the Chair and Vice Chair of the Banking and Finance  
2 Committee of the House of Representatives; and

3 5. Five members to be appointed by the President Pro Tempore of  
4 the Oklahoma State Senate who shall be legislators serving on the  
5 standing committee of the Oklahoma State Senate with primary  
6 jurisdiction concerning banking legislation including the Chair and  
7 Vice Chair of such standing committee.

8 C. The Task Force shall conduct an organizational meeting not  
9 later than ninety (90) days after the sine die adjournment of the  
10 2nd Regular Session of the 50th Oklahoma Legislature.

11 D. The cochairs of the Task Force shall be the Chair of the  
12 Banking and Finance Committee of the House of Representatives and  
13 the Chair of the standing committee of the Senate described in  
14 paragraph 5 of subsection B of this section. A simple majority of  
15 the members of the Task Force shall constitute a quorum for purposes  
16 of any action taken by the Task Force.

17 E. The Task Force shall be authorized to meet as often as  
18 required in order to perform the duties imposed upon the Task Force  
19 by law.

20 F. The Task Force shall conduct a study of the federal and  
21 state laws, including administrative rules or regulations, governing  
22 the authorized business activity of banks, whether the banks are  
23 members of the federal or state banking system. The Task Force

1 shall specifically determine the extent to which any proposed  
2 changes in the powers of banks under the jurisdiction of the State  
3 Banking Commissioner would or would not have adverse economic  
4 effects upon other financial, real estate or insurance service  
5 providers in the State of Oklahoma. The Task Force may produce a  
6 final report containing a summary of its findings and  
7 recommendations with respect to such issues. The final report, if  
8 approved by the Task Force, shall be submitted to the Governor, the  
9 Speaker of the Oklahoma House of Representatives and the President  
10 Pro Tempore of the Oklahoma State Senate not later than December 31,  
11 2006.

12 G. Travel reimbursement shall be the responsibility of the  
13 appointing authority. Legislators who are appointed to the Task  
14 Force shall be reimbursed for travel expenses pursuant to Section  
15 456 of Title 74 of the Oklahoma Statutes.

16 H. Staff assistance for the Task Force shall be provided by the  
17 Oklahoma House of Representatives and the Oklahoma State Senate. To  
18 the extent practical, the State Banking Department, the State  
19 Insurance Department and other entities of state government having  
20 information that would be helpful to the Task Force shall provide  
21 such assistance and information to the Task Force as may be  
22 required.

1 I. The Task Force shall be subject to the provisions of the  
2 Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

3 J. The Task Force shall cease to have any authority to take any  
4 official action after January 31, 2007, and shall be dissolved by  
5 operation of law on February 1, 2007.

6 SECTION 3. This act shall become effective July 1, 2006.

7 SECTION 4. It being immediately necessary for the preservation  
8 of the public peace, health and safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-4-06 - DO PASS,  
12 As Amended.